

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9523 of 2005

Between:

Neelam Malla Reddy, S/o. Bhoom Reddy, aged 60 years, Occ: Agriculture, R/o.
Laxmidevipalli Village, Thimmapur Mandal, Karimnagar District.

..... PETITIONER

AND

1. The District Collector, Karimnagar.
2. The Mandal Revenue Officer, Thimmapur Mandal, Karimnagar District.
3. The Mandal Revenue Inspector, Thimmapur Mandal, Karimnagar District.
4. The Panchayat Secretary, Gram Panchayat, Laxmidevipalli, Thimmapur Mandal, Karimnagar District.
5. Uppaleti Ellavva W/o. Naasaiah, aged 42 years, Occu: Agriculture, R/.
Vachhnnoor Village, Thimmapur Mandal, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Mandamus directing the respondents herein to allow the petitioner to use the bore-well which is existing for the last more than 10 years in his land in Survey No.504 which is located towards North side of R&B Road situated at Laxmidevipalli Village, **Thimmapur Mandal, Karimnagar District**, for extracting the water for the purpose of irrigating his agricultural lands as well as Orange garden in Survey No.504 by duly declaring the

action of the 2nd respondent in initiating action without there being any Notification issued Under Section 9 and 11 of the A.P. Water, Land and Trees Act, 2002 at the behest of the 5th respondent is nothing but arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and also contrary to the provisions of A.P. Water, Land and Trees Act, 2002.

Counsel for the Petitioner: MR. V. RAVI KIRAN RAO

Counsel for the Respondents 1 to 4: GP FOR REVENUE

The Court at the admission stage made the following :

THE HON'BLE MS. JUSTICE G. ROHINI

WRIT PETITION NO. 9523 OF 2005

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ORDER :

The petitioner was served with a notice dated 09-03-2005 issued by the 2nd respondent – Mandal Revenue Officer calling upon him to show-cause as to why the agricultural bore-well dug by him without permission should not be closed. The petitioner states that he submitted his explanation on 23-03-2005. It is alleged that though no orders have been passed by the Mandal Revenue Officer so far, the respondents are not allowing him to use the bore-well in question. Hence, this writ petition.

Heard the learned Counsel for both the parties.

Since the petitioner has already submitted his explanation and the 2nd respondent is yet to pass a final order, I do not see any justifiable reason to entertain this writ petition at this stage.

However, the learned Counsel for the petitioner contends that since there is no notification as required under Sections 9 and 11 of the Andhra Pradesh Water, Land and Trees Act, 2002 (for short, 'the Act'), the Mandal Revenue Officer is not competent to issue the impugned notice dated 09-03-2005 and therefore the entire

proceedings are liable to be declared as arbitrary and illegal. It is open to the petitioner to raise such an objection, if not already raised, before the 2nd respondent, in which event the 2nd respondent will consider the same and pass appropriate orders in accordance with law.

Accordingly, the Writ Petition is disposed of granting liberty to the petitioner to submit a further explanation raising the objection that there was no notification under Sections 9 and 11 of the Act. If any such further explanation is submitted by the petitioner within a period of two weeks from today, the Mandal Revenue Officer shall consider the same and pass appropriate orders in accordance with law. Till such orders are passed, the respondents are directed not to interfere with the petitioner's use of the bore-well in question. There shall be no order as to costs.

26th April, 2005.

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To

1. The District Collector, Karimnagar.
2. The Mandal Revenue Officer, Thimmapur Mandal, Karimnagar District.
3. The Mandal Revenue Inspector, Thimmapur Mandal, Karimnagar District.
4. The Panchayat Secretary, Gram Panchayat, Laxmidevipalli, Thimmapur Mandal, Karimnagar District.
5. 2 CCs to the G.P for Revenue, High Court Buildings, Hyderabad. (OUT)

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